


**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**

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**NOTICE OF ALLOWANCE  
AND ISSUE FEE DUE**

PAUL H. GINSBURG  
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 825 THIRD AVENUE  
 NEW YORK, NY 10022

The application identified below has been examined and found allowable  
 for issuance of Letters Patent. PROSECUTION ON THE MERITS IS CLOSED.

All communications regarding this application should give the serial number, date of filing, name of applicant, and batch number.

Please direct all communications to the Attention of "OFFICE OF PUBLICATIONS" unless advised to the contrary.

SC/SERIAL NO.	FILING DATE	TOTAL CLAIMS	EXAMINER AND GROUP ART UNIT	DATE MAILED
06/922,530	10/23/86	006	SCHWARTZ, R	121 07/29/87
First Named Applicant	BARNES,		ROGER D.	

TITLE OF INVENTION	ANTI-DEPRESSANT CRYSTALLINE PAROXETINE HYDROCHLORIDE HEMIHYDRATE (AS AMENDED)				
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ATTY'S DOCKET NO.	CLASS-SUBCLASS	BATCH NO.	APPLN. TYPE	SMALL ENTITY	FEES DUE	DATE DUE
81942/1943	514-321.000	C33	UTILITY	NO	\$560.00	10/29/87

The amount of the issue fee is specified in 37 C.F.R. 1.18. If the applicant qualified for and has filed a verified statement of small entity status in accordance with 37 C.F.R. 1.27, the issue fee is one-half the amount for non-small entities. The issue fee due printed above reflects applicant's status as of the time of mailing this notice. A verified statement of small entity status may be filed prior to or with payment of the issue fee. However, in accordance with 37 C.F.R. 1.28, failure to establish status as a small entity prior to or with payment of the issue fee precludes payment of the issue fee in the amount so established for small entities and precludes a refund of any portion thereof paid prior to establishing status as a small entity.

THE ISSUE FEE MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE as indicated above. The application shall otherwise be regarded as ABANDONED. The issue fee will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the Patent and Trademark Office. Where an authorization to charge the issue fee to a deposit account has been filed before the mailing of the notice of allowance, the issue fee is charged to the deposit account at the time of mailing of this notice in accordance with 37 C.F.R. 1.311. If the issue fee has been so charged, it is indicated above.

In order to minimize delays in the issuance of a patent based on this application, **this Notice may have been mailed prior to completion of final processing.** The nature and/or extent of the remaining revision or processing requirements may cause slight delays of the patent. In addition, **if prosecution is to be reopened, this Notice of Allowance will be vacated and the appropriate Office action will follow in due course.** If the issue fee has already been paid and prosecution is reopened, the applicant may request a refund or request that the fee be credited to a deposit account. However, applicant may request that the previously submitted issue fee be applied. If abandoned, applicant may request refund or credit to a deposit account.

In the case of each patent issuing without an assignment, the complete post office address of the inventor(s) will be printed in the patent heading and in the Official Gazette. If the inventor's address is now different from the address which appears in the application, please fill in the information in the spaces provided on PTOL-85b enclosed. If there are address changes for more than two inventors, enter the additional addresses on the reverse side of the PTOL-85b.

The appropriate spaces in the ASSIGNMENT DATA section of PTOL-85b must be completed in all cases. If it is desired to have the patent issue to an assignee, an assignment must have been previously submitted to the Patent and Trademark Office or must be submitted not later than the date of payment of the issue fee as required by 37 C.F.R. 1.334. Where there is an assignment, the assignee's name and address must be provided on the PTOL-85b to ensure its inclusion in the printed patent.

Advance orders for 10 or more printed copies of the prospective patent can be made by completing the information in Section 4 of PTOL-85b and submitting payment therewith. If use of a deposit account is being authorized for payment, PTOL-85c should also be forwarded. The order must be for at least 10 copies and must accompany the issue fee. The copies ordered will be sent only to the address specified in section 1 or 1A of PTOL-85b.

Note attached communication from the Examiner.

This notice is issued in view of  
applicant's communication filed \_\_\_\_\_

**IMPORTANT REMINDER**

Patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. See 37 CFR 1.20 (e)–(j).



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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

EXAMINER

ART UNIT	PAPER NUMBER
7/a	

DATE MAILED:

7-24-87

## NOTICE OF ALLOWABILITY

## PART I.

1.  This communication is responsive to \_\_\_\_\_
2.  All the claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice Of Allowance And Issue Fee Due or other appropriate communication will be sent in due course.
3.  The allowed claims are 1-5 & 13
4.  The drawings filed on 10-23-86 are acceptable.
5.  Acknowledgment is made of the claim for priority under 35 U.S.C. 119. The certified copy has  been received.  not been received.  been filed in parent application Serial No. \_\_\_\_\_, filed on \_\_\_\_\_
6.  Note the attached Examiner's Amendment.
7.  Note the attached Examiner Interview Summary Record, PTOL-413.
8.  Note the attached Examiner's Statement of Reasons for Allowance.
9.  Note the attached NOTICE OF REFERENCES CITED, PTO-892.
10.  Note the attached INFORMATION DISCLOSURE CITATION, PTO-1449.

## PART II.

A SHORTENED STATUTORY PERIOD FOR RESPONSE to comply with the requirements noted below is set to EXPIRE THREE MONTHS FROM THE "DATE MAILED" indicated on this form. Failure to timely comply will result in the ABANDONMENT of this application. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

1.  Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL APPLICATION, PTO-152, which discloses that the oath or declaration is deficient. A SUBSTITUTE OATH OR DECLARATION IS REQUIRED.
2.  APPLICANT MUST MAKE THE DRAWING CHANGES INDICATED BELOW IN THE MANNER SET FORTH ON THE REVERSE SIDE OF THIS PAPER.
  - a.  Drawing informalities are indicated on the NOTICE RE PATENT DRAWINGS, PTO-948, attached hereto or to Paper No. \_\_\_\_\_ CORRECTION IS REQUIRED.
  - b.  The proposed drawing correction filed on \_\_\_\_\_ has been approved by the examiner. CORRECTION IS REQUIRED.
  - c.  Approved drawing corrections are described by the examiner in the attached EXAMINER'S AMENDMENT. CORRECTION IS REQUIRED.
  - d.  Formal drawings are now REQUIRED.

Any response to this letter should include in the upper right hand corner, the following information from the NOTICE OF ALLOWANCE AND ISSUE FEE DUE: ISSUE BATCH NUMBER, DATE OF THE NOTICE OF ALLOWANCE, AND SERIAL NUMBER.

## Attachments:

- Examiner's Amendment
- Examiner Interview Summary Record, PTOL- 413
- Reasons for Allowance
- Notice of References Cited, PTO-892
- Information Disclosure Citation, PTO-1449
- Notice of Informal Application, PTO-152
- Notice re Patent Drawings, PTO-948
- Listing of Bonded Draftsmen
- Other

Serial No. 922,530

2

Art Unit 121

EXAMINER'S AMENDMENT

Restriction to one of the following inventions is required under 35 USC 121:

- I. Claims 1-5 and 13, drawn to final product, composition, method and crystallization process, classified in 546/197 and 514/321.
- II. Claim 6, drawn to a salt formation process, classified in 546/197.
- III. Claims 7-10, drawn to a deacylation process, classified in 546/197.
- IV. Claim 11, drawn to a first intermediate, classified in 546/226.
- V. Claim 12, drawn to a second intermediate, classified in 546/226.

The inventions are separate and distinct, each from the other because of the following reasons:

Inventions I and II-III are related as process of making and product made. The inventions are distinct if either or both of the following can be shown, (1) that the process as claimed can be used to make other and different products or (2) that the product as claimed can be made by another and materially different process. See MPEP 806.05(f). In the instant case the product can be made by a plurality of materially different processes, as evidenced by groups II-III themselves. A single process of making has been included with the product group, as per 37 CFR 1.141(b)(1)(i). Process groups II and III are distinct from one another because they are drawn to separate chemical reactions.

Inventions I and IV-V are related as mutually exclusive species in intermediate-final product relationship. Distinctness is proven for claims in this relationship if the intermediate is

Serial No. 922,530

3

Art Unit 121

useful to make other than the final product(MPEP section 806.04(b)) 3rd paragraph and the species are patentably distinct(MPEP section 806.04(h)).

In the instant case, the intermediate is deemed to be useful as an antihypertensive and the inventions are deemed patentably distinct, since there is nothing on this record to show them to be obvious variants. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions anticipated by the prior art, the evidence of admission may be used in a rejection under 35 USC 103 of the other invention. Groups IV and V are distinct from each other because the compounds possess apparent chemical differences and will support separate patents.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

During a telephone conversation with Ms. Pierri on 30th June 1987 an election was made to prosecute the invention of Group I, claims 1-5 and 13 and the requirement was traversed. Claims 6-12 were withdrawn from further consideration by the Examiner, 37 CFR 1.142(b), as being drawn to non-elected inventions.

Claims 1-5 and 13 have been examined and have been found allowable. Pursuant to a telephone interview between Mr. Haley and Ex. Schwartz on 24th July 1987 this application has been amended as follows:

Serial No. 922,530

4

Art Unit 121

Claims 6-12 have been cancelled without prejudice.

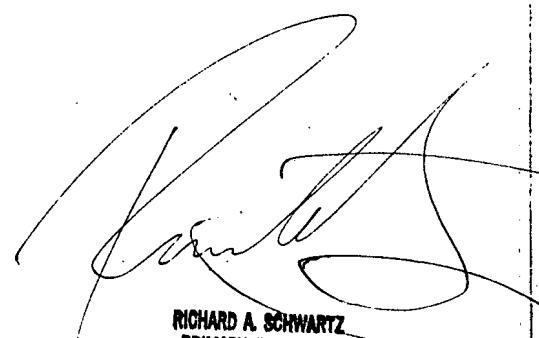
In claim 4, line 1, "A" has been changed to  
-- An anti-depressant --; line 1, after "comprising",  
-- an effective anti-depressant amount of -- has been inserted.

In claim 5, lines 4-5, "precipitating...solution" has been  
replaced by:

6  
crystallizing said hemihydrate from solution by  
precipitation or recrystallization

In claim 13, line 1, after "depression", -- in mammals --  
has been inserted.

In the ABSTRACT, last line, after "use", --as an anti-depres-  
sant -- has been inserted.

  
RICHARD A. SCHWARTZ  
PRIMARY EXAMINER  
ART UNIT 121

Schwartz  
703-557-3920  
7-24-87